

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

- against -

LUCIO CELLI,

Defendant.

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MEMORANDUM AND ORDER

18-MJ-1101 (RER)

James Orenstein, Magistrate Judge:

Defendant Lucio Celli ("Celli") has asked me to order an entity to produce certain records. The sole basis for the request is that his counsel asked the respondent entity to provide the records on December 10, 2018, has not yet received a response, and seeks the records at issue to pursue an investigation. *See* Docket Entry ("DE") 15 (motion). For the reasons set forth below, I deny the request without prejudice to renewal on notice to the respondent entity.

As a threshold matter, I note that Celli's counsel first submitted the request *ex parte* and under seal without leave. When I directed counsel to file a suitably redacted version on the public docket, counsel did so in a way that, as far as I can tell, needlessly and inappropriately masks the nature of the investigation counsel seeks to pursue, the identity of the entity from which counsel seeks information and the nature of the requested records. The Federal Rules of Criminal Procedure require the redaction of certain categories of personal information in court filings and a create a mechanism for seeking to protect legitimate privacy interests attendant to the inclusion of other kinds of information. *See* Fed. R. Crim. P. 49.1. Celli's counsel has not sought redaction under that rule and I see no reason why any of the redacted information should remain shielded from public scrutiny, particularly in light of the discussion of matters that appear to be related to the instant request at public hearings in this case. *See* DE 10 (transcript of proceedings on November 14, 2018) at 8-12; DE 12 (noting denial of bail application without prejudice to renewal when a course of

medical treatment is submitted to the court). Accordingly, absent a basis for continued sealing, I will respectfully direct the Clerk to unseal the unredacted version of Celli's motion. *See* Fed. R. Crim. P. 49.1(d).

In seeking the records at issue, Celli reports only that he has requested that the respondent entity produce them. He does not suggest that the entity has any legal obligation to comply with that request (by virtue of a subpoena or otherwise) or that he has provided the entity with any necessary authorizations that would even allow the entity to do so consistent with its legal obligations to protect the privacy of certain types of information.¹ Nor has Celli identified any law that empowers me to issue the requested order or demonstrated that his motion satisfies the standard for entering an order under such law. Indeed, Celli has not even provided a reason to believe that the respondent entity has any records responsive to his request in its possession, custody, or control. Finally, Celli has neither identified any authority that would allow me to order the respondent entity to produce records without first receiving notice of the request and having an opportunity to be heard nor explained why it would be appropriate to do so assuming such authority exists.

I therefore deny the motion without prejudice to renewal on notice to the respondent entity and respectfully direct the defendant's counsel to show cause in writing by February 14, 2019, why the instant motion should not be filed in unredacted form on the public docket.

SO ORDERED.

Dated: Brooklyn, New York
February 11, 2019

_____/s/
James Orenstein
U.S. Magistrate Judge

¹ The proposed order describes the records Celli seeks as "Lucio Celli's Records." *See* DE 15-1.